

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

**SARENA SCRUGGS,
Plaintiff**

v.

**CAROLYN W. COLVIN,
COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION,
Defendant**

§
§
§
§
§
§
§
§
§

No. 9:14-CV-00072-KFG

**ORDER OVERRULING OBJECTIONS AND ADOPTING
REPORT AND RECOMMENDATION**

The Plaintiff requests judicial review of a final decision of the Commissioner of Social Security Administration with respect to her application for disability-based benefits. This matter has been referred to the Honorable Keith Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge submitted a report recommending that the decision of the Commissioner be affirmed. The court has considered the report and recommendation filed on April 27, 2016 (Doc. No. 18) and the Plaintiff's objections (Doc. No. 19). The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* Fed. R. Civ. P. 72(b). After careful consideration, the court concludes that the Plaintiff's objections are without merit.

Plaintiff complains that the magistrate judge supported his conclusion that the ALJ did not err in finding that her credibility should be given diminished weight because the ETMC records relied upon by the ALJ and by the magistrate judge "do not mention Ms. Scruggs' knees" and, therefore the magistrate judge "erroneously offered his own reasons for the ALJ's credibility finding."

The magistrate judge specifically set forth numerous factors relied upon by the ALJ in

making the determination that the ALJ properly evaluated Plaintiff's credibility. The first factor noted by the magistrate judge (and relied upon by the ALJ) was that when Plaintiff visited ETMC on May 11, 2011 with new complaints of onset knee pain, she made no complaints regarding her allegedly disabling conditions of hypertension or fibromyalgia. Although Plaintiff contends that the medical records do not mention her knees, the records reveal otherwise. The records state that "[t]he onset was one week(s) ago and that Plaintiff described the injury as "a twisting injury with a varus stress on the knee." [Tr. 373]. The ALJ essentially noted that although she was treated for knee pain, Plaintiff made no mention of her fibromyalgia and that this fact weighed somewhat against her credibility regarding her assertion that it was a disabling condition which precluded any type of work. The magistrate judge correctly found that this factor was properly included in the ALJ's determination of Plaintiff's credibility.

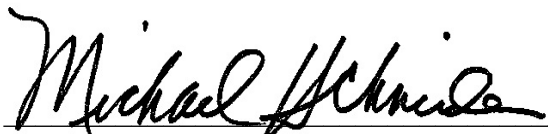
Further, Plaintiff's objection to the Report and Recommendation does not take into account that the ALJ set forth numerous reasons for discounting Plaintiff's credibility including lack of objective medical evidence to support her complaints of the intensity of her pain and her ability to perform daily activities.

The magistrate judge did not impose his own reasons regarding Plaintiff's discounted credibility on her knee pain, rather he cited to the ALJ's opinion specifying the reasons for discounting credibility

The court concludes that the magistrate judge correctly identified and discussed the points of error argued by plaintiff and analyzed those points correctly. The magistrate judge properly examined the entire record to determine that substantial evidence supports the administrative law judge's credibility assessments and determination of weight accorded to medical evidence and the Commissioner's denial of benefits.

Accordingly, all of the Plaintiffs objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED this 27th day of May, 2016.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE